

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

WILLIAM R. LYONS,  
Petitioner,  
vs.  
ISIDRO BACA, *et al.*,  
Respondents.

Case No. 3:14-cv-00173-HDM-WGC  
**ORDER**

This action is a *pro se* petition for a writ of habeas corpus filed pursuant to 28 U.S.C. § 2254 by a Nevada state prisoner. By order filed January 22, 2015, the Court dismissed this action with prejudice as untimely. (ECF No. 22). The Court's order also denied petitioner a certificate of appealability. (*Id.*). The Clerk's judgment was entered the same date. (ECF No. 23).

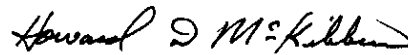
On February 13, 2015, petitioner filed a motion for a certificate of appealability. (ECF No. 24). Respondents oppose petitioner's motion. (ECF No. 25). In order to proceed with his appeal, petitioner must receive a certificate of appealability. 28 U.S.C. § 2253(c)(1); Fed. R. App. P. 22; 9<sup>th</sup> Cir. R. 22-1; *Allen v. Ornoski*, 435 F.3d 946, 950-951 (9<sup>th</sup> Cir. 2006); *see also United States v. Mikels*, 236 F.3d 550, 551-52 (9<sup>th</sup> Cir. 2001). Generally, a petitioner must make "a substantial showing of the denial of a constitutional right" to warrant a certificate of appealability. *Id.*; 28 U.S.C. § 2253(c)(2); *Slack v. McDaniel*, 529 U.S. 473, 483-84 (2000). "The petitioner must demonstrate that reasonable jurists would find the district court's assessment of the constitutional claims debatable or wrong." *Id.* (*quoting Slack*, 529 U.S. at 484). In order to meet this threshold

1 inquiry, the petitioner has the burden of demonstrating that the issues are debatable among jurists of  
2 reason; that a court could resolve the issues differently; or that the questions are adequate to deserve  
3 encouragement to proceed further. *Id.* In the instant case, petitioner reasserts the same arguments  
4 he asserted in his petition and in his opposition to the motion to dismiss. The Court has addressed  
5 and rejected petitioner's arguments in the order filed January 22, 2015. (ECF No. 22). No  
6 reasonable jurist would find this Court's dismissal of the petition debatable or wrong. The Court  
7 therefore denies petitioner's motion for a certificate of appealability.

8 **IT IS THEREFORE ORDERED** that petitioner's motion for a certificate of appealability  
9 (ECF No. 24) is **DENIED**.

10 **IT IS FURTHER ORDERED** that the Clerk of Court **SHALL TRANSMIT** this order to  
11 the Ninth Circuit Court of Appeals forthwith.

12 Dated this 10<sup>th</sup> day of March, 2015.

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HOWARD D. McKIBBEN  
16 UNITED STATES DISTRICT JUDGE  
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